



## **FACT SHEET**

### **EXCESS LIABILITY TRUST FUND (ELTF) AND RISK-INTEGRATED SYSTEM OF CLOSURE (RISC)**

**OFFICE OF ENVIRONMENTAL RESPONSE**

**JUNE 2000**

#### **Are RISC characterization activities and costs associated with RISC guidance cover under ELTF?**

One of the eligibility criteria for ELTF reimbursement is an approved corrective action plan (CAP). The CAP details remedial action and goals to obtain closure. Therefore, whatever is in the IDEM-approved CAP is reimbursable. Funds for release characterization are also eligible for reimbursement. This can include costs associated with characterization using RISC guidance prior to CAP implementation.

#### **What is IDEM's position on ELTF reimbursement for cleanups completed to less than risk-based levels? Some property owners may want to conduct cleanup to nondetect levels.**

As stated above, costs associated with activities approved in the CAP are reimbursable. Costs incurred for activities conducted beyond what is in the CAP are **not** eligible for reimbursement. Generally, only land-use based default levels are acceptable remedial goals in approved CAPs. However, in certain situations, residential levels can be approved. For example, residential levels are acceptable if the property is leased and property control cannot be obtained for the site. Another example is a site that results in ecological impacts or that has a direct path to an ecological area, which may necessitate a lower cleanup level.

#### **Who is responsible for reimbursement criteria?**

The responsibility for CAP approval rests with IDEM. The responsibility for reimbursement criteria rests with the Financial Assurance Board (FAB). Through rulemaking, the FAB has established reasonable costs for most activities associated with corrective action.

### **What impact will RISC have on reimbursable costs under the Excess Liability Fund (ELF) Program?**

The FAB has adopted a nonrule policy document (see [Appendix 5-2](#) of the User's Guide) that deals with ELTF's interaction with RISC. The FAB will also be promulgating rules which, in part, will implement RISC as part of ELTF.

### **What is the current mechanism for CAP approval?**

There is a new mechanism for reviewing CAPs within the ELF Program. A private contractor has been awarded a contract to review both ELTF claims and CAPs. The contractor will perform a technical review of the CAP and forward this review to IDEM. IDEM will then approve or deny the CAP based on the technical information provided by the contractor.

### **How will RISC affect the contents of CAPs?**

For permanent closure, the CAP will still detail remedial actions and goals. IDEM will review and approve CAPs as before. The main change is that if remedial goals are greater than residential standards, environmental notices will need to be in place prior to CAP approval. This requirement also applies to closure with institutional controls because closure with institutional controls depends on preventing exposure to contamination at concentrations that exceed human health-based levels. Therefore, the environmental notice is the key component of exposure prevention in the RISC guidance.

If environmental notices are not in place prior to CAP submittal, it will be difficult to determine whether closure with institutional controls can be utilized. For example, if closure with institutional controls is desired for a site with off-site ground water contamination and IDEM approves the CAP before off-site notice is obtained but no agreement can be reached regarding the environmental notice, the point of compliance (POC) could move from off site to the site property boundary. In this case, remedial action is required to bring the plume back to where property control ends. Now a CAP addendum must be submitted to IDEM to propose remedial action to bring the POC into compliance.

At this time, it is anticipated that CAP submittal and approval can be completed prior to the completion of 2 years of plume stability monitoring. If a CAP is submitted that proposes a closure with institutional controls for ground water **and** property control is documented, the CA can be reviewed and approved based on the information supplied. If the CAP is approved but the plume later fails the stability test, either a remedial plan can be prepared and implemented or plume stability can be modeled as a nondefault option.

**Will the ELF Program reimburse costs associated with obtaining environmental notices for property not owned by the ELTF participant?**

Costs associated with environmental notices can be included in third-party claims, which [IC 13-23-9](#) states that IDEM will reimburse. However, the Attorney General's office will review all third-party claims to determine whether they are reasonable. In other words, if an ELTF participant pays an amount that exceeds what the Attorney General considers to be reasonable, the participant will not be reimbursed for the full amount of the claim. The Attorney General's office may request additional documentation, such as appraisals or affidavits, to support a determination that the costs are reasonable.